

WILLIAM E. WINFIELD (State Bar #122055)
NELSON COMIS KETTLE & KINNEY LLP
5811 Olivas Park Drive, Suite 202
Ventura, California 93003
Telephone: (805) 604-4106
Facsimile: (805) 604-4150
Email: wwinfield@calattys.com

Attorneys for Brittany Green Goode

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA LOS ANGELES DIVISION

In Re:	Chapter 7
BRITTANY GREEN GOODE	Case No.: 2:23-bk-11522-BR
Debtor.	Adv. No.:
BRITTANY GREEN GOODE,	Judge Barry Russell
Plaintiff,	COMPLAINT TO DETERMINE DEBT
v.	DISCHARGEABLE
UNITED STATES DEPARTMENT OF	[11 U.S.C § 523(a)(8), 15 U.S.C § 1601, 15
EDUCATION; and ED FINANCIAL	U.S.C. § 1692 and Federal Rules of Bankruptcy
SERVICES, LLC,	Procedure Rule 7001]
Defendant.	

TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY JUDGE ,
AND THE DEFENDANT HEREIN:

I. PLAINTIFF'S COMPLAINT

Plaintiff Brittany Green Goode files this Complaint against Defendant EDFINANCIAL SERVICES, LLC, on personal knowledge as to Plaintiff's own acts and upon information and belief as to all other matters, as follows:

COMPLAINT TO DETERMINE DEBT DISCHARGEABLE

1 **II. PARTIES**

2 **A. Plaintiff**

3 1. Brittany Green Goode is a citizen of the State of California, residing in the Central
4 District of California.

5 **B. Defendant**

6 2. EDFINANCIAL SERVICES, LLC is a corporation headquartered in the State of
7 Tennessee, and can be served at 298 N. Seven Oaks Dr., Knoxville, TN 37922-2369.
8

9 **III. JURISDICTION AND VENUE**

10 3. This Adversary Proceeding is brought under Plaintiff's Chapter 7 Case Number 2:23-
11 bk-11522-BR.

12 4. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. §
13 1334(b) and 28 U.S.C § 157(b). This is a core proceeding under title 11 because it concerns a
14 determination as to the dischargeability of a debt.
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16 5. This Adversary Proceeding is brought pursuant to 11 U.S.C § 523(a)(8), 15 U.S.C §
17 1601, 15 U.S.C. § 1692 and Federal Rules of Bankruptcy Procedure Rule 7001.
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19 6. Venue is proper in the Central District of California pursuant to 28 U.S.C. § 1409
20 because this matter arises in and is related to a bankruptcy case in this district.
21

22 **IV. FACTUAL AND PROCEDURAL BACKGROUND**

23 **A. Background of the Problem**

24 7. The federal student loan program was originally designed in response to Sputnik. After
25 the successful launch of the Soviet rocket, the U.S. government became worried that the Russians
26 were outpacing Americans in science and math education. In order to make Americans more
27 competitive in the space race, the government authorized the creation of the National Defense
28

1 Education Act in 1958 and the Guaranteed Student Loan Program (now the Stafford Loan) in 1965.

2 8. Even by the 1970s, few students needed loans to go to college. The average cost of
3 tuition was only \$2,587 and the average debt for a medical student was only \$13,469. With Pell
4 grants, scholarships, and summer jobs, even kids from lower-income backgrounds could often make
5 it through college debt free. But largely in response to anecdotal evidence about a few dishonest
6 lawyers filing for bankruptcy immediately after graduation, Congress made student loans
7 presumptively non-dischargeable in bankruptcy for the first five years of repayment, unless excepting
8 such discharge would impose an “undue hardship” on the debtor or her dependents. Although this
9 rule was at odds with the fundamental purpose of the bankruptcy code, it was perhaps a reasonable
10 exception as it only applied to the first five years of repayment.

11 9. Congress did not define “undue hardship” in 1978 but instead left that determination to
12 the courts. Over the next thirty years, courts wrestled with meaning of “undue hardship,” creating
13 and discarding nearly a dozen test, working within and without the text of the statute, now
14 commingling the court’s equitable powers under section 105 with the court’s mandate under section
15 523(a)(8), now refusing to do so. Over time, two tests have emerged triumphant from the cauldron of
16 judicial lawmaking: the *Brunner* Test (“*Brunner*”) and the Totality of the Circumstances Test
17 (“TOC”). These two tests are supplemented with wide disagreement over whether courts are
18 permitted to discharge one of several loans, a practice known as “partial discharge.”

19 10. After *Brunner* and TOC had codified the meaning of “undue hardship,” Congress
20 amended section 523(a)(8) in two chief ways: (1) abolishing the five year time frame and making
21 student loans non-dischargeable in perpetuity; and (2) adding subsection 523(a)(8)(B) which excepted
22 from discharge qualified private student loans. The problem with these amendments is that the
23 “undue hardship” standards were created when courts were only charged with determining whether
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1 repayment of federally insured loans with capped interest rates during the first five years would
2 constitute an undue hardship. Both Brunner and the Totality of the Circumstances test are therefore
3 incredibly harsh because courts knew that after five years, the debt could be discharged without any
4 showing of additional financial strain whatsoever.

5
6 11. Although Brunner/TOC is binding precedent in this Circuit, Plaintiff humbly prays that
7 this Court reconsider the applicability of that precedent given the changing legal landscape of section
8 523(a)(8) since the time Brunner/TOC was enacted.

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10 **B. Plaintiff Files For Bankruptcy**

11 12. Plaintiff borrowed \$22,478.00 from Defendant in order to attend University of
12 California Irvine between 2002 and 2005.

13 13. Plaintiff borrowed \$133,009.00 from Defendant in order to attend California Institute of
14 the Arts between 2007 and 2014.

15 14. Owing to circumstances beyond her control, Plaintiff filed for bankruptcy in this Court
16 on March 16, 2023 under Chapter 7 of Title 11. Prior to the commencement of Plaintiff's bankruptcy
17 case, Plaintiff owed defendants student loans.

18
19 **C. Plaintiff's Personal Information and Present Ability to Pay**

20 15. Plaintiff's combined student debt is now \$155,487.00. Plaintiff's current income is
21 \$4,717.79 per month from her contract job, ebook sales, and working Doordash. After considering
22 payroll deductions of \$600.25, her net monthly take home pay is \$4,159.46. Plaintiff's current
23 monthly living expenses are \$3,935.00 as reflected in Schedule J of her Bankruptcy Schedules. Below
24 is a chart comparing Plaintiff's expenses to the IRS standards.

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Expense	Plaintiff's Actual Expense	IRS Allowed Amount (for a household of 1)
Rent	\$1,750	\$1,966

Home maintenance, repair and upkeep and utilities	\$300	\$578
Phone internet	\$200	\$170 (IRS Miscellaneous)
Food and housekeeping supplies	\$650	\$471
Clothing laundry and dry cleaning	\$60	\$99
Personal care products and services	\$225	\$45
Medical and dental expenses	\$115	\$75
Transportation	\$200	\$375 (IRS operational allowance)
Entertainment, clubs, recreation, newspapers, magazines and books	\$250	n/a
Health Insurance	\$55	n/a
Vehicle Insurance	\$130	\$588 (IRS ownership allowance)
Total	\$3,935	\$4,367

16. Most of Plaintiff's expenses are below IRS standards for the particular categories and on aggregate of the total expenses, the Plaintiff is also below IRS allowed expenses. It would be unconscionable for this Court to require Plaintiff to reduce her expenses further than she has already reduced them. Plaintiff can't decrease her monthly expense budget in any way. Plaintiff's expense budget does not include any frivolous expenses. Plaintiff contributes nothing to retirement even though she has very little savings.

D. Future Circumstances

17. Plaintiff's student loans entered repayment on or about November 27, 2009. Plaintiff's student loans cost her approximately \$294.03 each month because she is on an income-based repayment program which she has been on for years. She has to reapply every year.

18. At the current repayment program, Plaintiff will never be able to pay off her student

1 loans. Plaintiff can't maintain a minimal standard of living if required to repay her student loans to
2 Defendant, even at the reduced monthly payment amount. Plaintiff lives paycheck to paycheck and
3 has no disposable income left over each month to repay her student loans. Plaintiff has over \$150,000
4 in student loans and will never be able to fully amortize her student loans with Defendant.

5
6 19. Plaintiff's continued employment at her full-time contract job is questionable as her
7 current employment contract is up in June 2023 and may not get renewed.

8
9 20. Additional circumstances prove Plaintiff's state of affairs above is likely to persist in the
10 future. Plaintiff has used her Master of Fine Arts degree to maximized her income potential as much
11 as possible. Plaintiff is not expecting any inheritance or gifts in the future that might allow her to
12 repay her student loans. Plaintiff has no assets she could sell to repay her student loans. Plaintiff's
13 rent and other monthly expenses continue to increase and her wages don't keep up with the costs of
14 living

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16 **E. Plaintiff's Prior Efforts to Repay Loans**

17 21. Plaintiff has been attempting to pay off her student loans since they went into repayment
18 on or about November 27, 2009. She has even reapplied for the income-based repayment program for
19 10 years to attempt to pay off the loans.

20
21 22. Plaintiff has made a good faith effort to try to repay her loans. She has maximized
22 income by working full-time, ebook sales, and driving Doordash. She has also minimized expenses to
23 the best of her ability. Plaintiff's job as a Project Coordinator at BRC Imagination Arts, LLC is the
24 highest paying job she can find.

25
26 **F. Plaintiff's Assets**

27 23. Plaintiff's only significant asset is her 2014 Jeep Compass which has \$9,908 in equity as
28 shown in Schedule A/B of her bankruptcy schedules. Plaintiff has exempted all of her minimal assets

1 including the equity in her vehicle. Even if Plaintiff had not exempted the equity in her vehicle, it
2 would be unreasonable to expect Plaintiff to liquidate this asset in order to pay her student loans.
3 Plaintiff needs her vehicle to maintain a minimal standard of living for herself. Plaintiff would
4 therefore have to purchase a new vehicle if this asset were liquidated. Additionally, requiring Plaintiff
5 to liquidate the \$9,908 in equity in her vehicle to pay down her student loans would still leave
6 approximately \$146,079 due, and there is no showing that Plaintiff would have the ability to satisfy
7 this part of the student loans after liquidating the vehicle and paying \$9,908. For these reasons,
8 liquidation of the asset would be inappropriate.
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11 **V. CLAIMS FOR RELIEF**

12 **A. Count One: Determination of Dischargeability – 11 U.S.C. § 523(a)(8)**

13 24. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of
14 the preceding paragraphs.

15 25. Plaintiff is entitled to discharge of her student loan debt, either in whole or in part,
16 because repayment would constitute an “undue hardship” on her.

17 26. Plaintiff meets the standard for undue hardship as articulated in *Brunner*/Totality of the
18 Circumstances.

19 27. Accordingly, Plaintiff prays this Court discharge her private student debt in part or in
20 total.
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23 **VI. PRAYER**

24 28. In light of the foregoing, Plaintiff requests that Defendants be cited to appear and
25 judgment be entered against Defendants for:

- 26 1) Declaratory and injunctive relief;
27 2) Determination of dischargeability;
28

- 1 3) An order determining Plaintiff's debts to Defendants as alleged above are discharged
2 pursuant to 11 U.S.C § 523(a)(8) because excepting Plaintiff's debts to Defendant
3 from discharge would impose an undue hardship on Plaintiff under the three-prong
4 *Brunner* test; and an award of costs; and
5
6 4) For other such relief as the Court deems just and proper.

7 Respectfully Submitted,

8 Dated: May 8, 2023

NELSON COMIS KETTLE & KINNEY LLP

11 
12 BY: William E. Winfield, Esq.
13 Attorneys for Plaintiff Brittany Green Goode